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August 12, 2004

Mary L. Cottrell, Secretary
Department of Telecommunication and Energy
One South Station, 2nd Floor
Boston, MA 02202

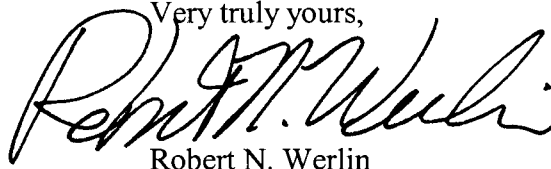
Re: D.T.E. 04-60 — Petition of Cambridge Electric Light Company and
Commonwealth Electric Company for Approvals Relating to the Termination of
Power Purchase Agreements with Pittsfield Generating Company, L.P.

Dear Secretary Cottrell:

Enclosed for filing is the Initial Brief of Cambridge Electric Light Company
("Cambridge") and Commonwealth Electric Company ("Commonwealth"), d/b/a NSTAR
Electric ("NSTAR Electric") in the above-referenced proceeding. Also enclosed is a
certificate of service.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert N. Werlin", written in a cursive style.

Robert N. Werlin

Enclosures

cc: Joan Foster Evans, Hearing Officer
Service List

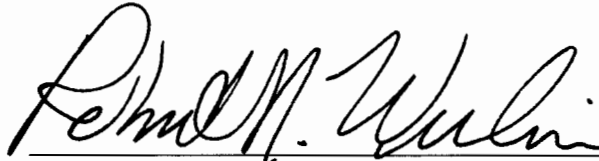
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company/
Commonwealth Electric Company

D.T.E. 04-60

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document upon the Department of Telecommunications and parties of record in accordance with the requirements of 220 C.M.R. 1.05 (Department's Rules of Practice and Procedures).



Robert N. Werlin, Esq.
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Dated: August 12, 2004

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company/
Commonwealth Electric Company

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D.T.E. 04-60

**INITIAL BRIEF OF CAMBRIDGE ELECTRIC LIGHT COMPANY AND
COMMONWEALTH ELECTRIC COMPANY D/B/A NSTAR ELECTRIC**

Submitted by:

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August 12, 2004

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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company Commonwealth Electric Company))))	D.T.E. 04-60
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**INITIAL BRIEF OF CAMBRIDGE ELECTRIC LIGHT COMPANY AND
COMMONWEALTH ELECTRIC COMPANY D/B/A NSTAR ELECTRIC**

I. INTRODUCTION

On June 29, 2004, Cambridge Electric Light Company (“Cambridge”) and Commonwealth Electric Company (“Commonwealth”) d/b/a NSTAR Electric (“NSTAR Electric” or the “Companies”) petitioned the Department of Telecommunications and Energy (the “Department”), pursuant to G.L. c. 164, §§ 1A, 1G, 76, 94 and 94A for approval of: (a) the Termination Agreements between: (1) Cambridge and Pittsfield Generating Company, L.P. (formerly known as Altresco Pittsfield, L.P.) (“Pittsfield”); and (2) Commonwealth and Pittsfield (collectively, the “Pittsfield Termination Agreements”); and (b) approval of ratemaking treatment relating to the Pittsfield Termination Agreements.

The Company’s initial filing included a Petition (the “Petition”) and: (1) the pre-filed testimony of Geoffrey O. Lubbock (Exh. NSTAR-GOL); (2) the pre-filed testimony of Robert B. Hevert (Exh. NSTAR-RBH); and (3) supporting exhibits thereto.¹ The

¹ The Companies supporting exhibits included: (1) Exhibits NSTAR-CAM-GOL-1 through NSTAR-CAM-GOL-8; (2) Exhibits NSTAR-COM-GOL-1 through COM-GOL-8; and (3) Exhibits NSTAR-RBH-1 through NSTAR-RBH-6.

Pittsfield Termination Agreements were included in the Companies' initial filing as attachments to the Petition and the Termination Agreements, which, together, were marked as Exhibit NSTAR-1.

On or about July 19, 2004, the Office of the Attorney General (the "Attorney General") filed a notice of intervention, and Pittsfield filed a petition to intervene in this proceeding. On July 21, 2004, a public hearing was held followed by a procedural conference during which the Hearing Officer granted the Attorney General and Pittsfield intervenor status. The Department held an evidentiary hearing in this proceeding on August 6, 2004. The evidentiary record in this case includes nearly 250 exhibits, the transcript of the evidentiary hearing held on August 5, 2004 and the responses to twelve record requests.

In support of the Petition, the Companies presented the testimony of Geoffrey O. Lubbock, Vice President, Financial Strategic Planning & Policy for NSTAR Electric & Gas Corporation. Mr. Lubbock provided information regarding the Pittsfield Termination Agreements and related customer savings, including the positive effect of the Termination Agreements on the Companies' respective Transition Charges. In addition, the Companies presented the testimony of Robert B. Hevert, President of Concentric Energy Advisors, Inc., ("CEA"), to discuss the specifics of the Companies' 2003 PPA Auction (the "2003 Auction") that resulted in the execution of the Pittsfield Termination Agreements. As set forth herein, the Pittsfield Termination Agreements were arrived at after an open, competitive and vibrant auction, consistent with Department precedent. As a result, the Pittsfield Termination Agreements will result in approximately \$7 million in savings for the Companies' customers.

Based on the evidence presented in this proceeding, the Companies have demonstrated that they have met the standards established in the Electric Restructuring Act, Chapter 164 of the Acts of 1997 (the “Act”), regarding the mitigation of transition costs (including the buyout of purchase power agreements (“PPAs”)), and that the 2003 Auction is consistent with: (1) the Companies’ restructuring plan (the “Restructuring Plan”), as approved by the Department in Cambridge Electric Light Company, et al., D.P.U./D.T.E. 97-111 (1998); and (2) Department precedent. Therefore, the Companies respectfully request that the Department approve their Petition.

II. DESCRIPTION OF THE TRANSACTION

As a result of the 2003 Auction, the Pittsfield Termination Agreements were executed on June 2, 2004. The Pittsfield Termination Agreements will terminate the existing PPAs between the Companies and Pittsfield (the “Existing PPAs”) whereby the Companies are required to purchase a portion of the electricity produced by the Pittsfield electrical generation unit in Pittsfield, MA (see Exhs. NSTAR-CAM-GOL-1 and NSTAR-COM-GOL-1). The Pittsfield unit is a gas-fired, combined-cycle cogeneration facility consisting of three gas turbine/generators combined with three heat recovery steam generators driving a fourth generator (Exh. NSTAR-GOL at 12). The plant has a current summer capacity rating of 141 megawatts (“MW”), and a winter capacity rating of 173 MW (id.). Each of NSTAR Electric’s two PPAs requires Cambridge and Commonwealth to pay for delivered energy and capacity for 17.2 percent of the output of the plant through December 31, 2011 (id.). The pricing provisions through September 15, 2008 of the Existing PPAs include a capacity charge indexed to inflation, and an energy charge based on fuel price escalators (id.). After September 15, 2008, the

Existing PPAs provide for sales of electricity at market rates (Exh. DTE-1-22, Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**). In addition, the Existing PPA with Cambridge includes a separate transmission charge (Exh. NSTAR-GOL at 12).

The Pittsfield Termination Agreements extinguish all obligations for Cambridge and Commonwealth to purchase power under the Existing PPAs (*id.*). In return, Cambridge and Commonwealth are together required to pay Pittsfield \$1.67 million per month from the Pittsfield Termination Agreements' Effective Date (currently expected to be October 1, 2004) through December 1, 2008 (*id.* at 12-13). The Effective Date is defined in the Pittsfield Termination Agreements as three days after all of the preconditions, including regulatory approvals, have been met (*id.*; see also Exh. NSTAR-1 (Appendices A/B, § 2.1, respectively)).

III. STANDARD OF REVIEW

With regard to a power-purchase agreement buyout, G.L. c. 164, § 1G allows the renegotiation of above-market power purchase contracts to achieve the maximum mitigation of transition costs. G.L. c. 164, § 1G(d)(1) and (2). The Act further provides that, if a contract renegotiation, buy-out or buy-down is likely to achieve savings to customers and is otherwise in the public interest, the Department is authorized to approve the recovery of the costs associated with the contract restructuring. G.L. c. 164, § 1G(b)(1)(iv).

In reviewing power contract buyouts, buydowns and renegotiations, the Department has applied a standard of reasonableness. Commonwealth Electric Company (Lowell Cogen Buyout), D.T.E 99-69, at 7 (1999); Boston Edison Company (L'Energia Buyout), D.T.E. 99-16, at 5-6 (1999); Western Massachusetts Electric Company

(Springfield Resource Contract Restructuring), D.T.E. 99-56, at 7-8 (1999). In assessing the reasonableness of a power-purchase contract renegotiation, buy-out or buy-down, the Department reviews available information to ensure that the agreement is consistent with the public interest. Western Massachusetts Electric Company, D.T.E. 99-101, at 5-6 (2000) (MASSPOWER buy-out); Commonwealth Electric Company, D.P.U. 91-200, at 5 (1993); Boston Edison Company, D.P.U. 92-183 (1992) (Department approval of a termination agreement of a purchase-power contract with Down East Peat, L.P.).

The Department's regulations do not prohibit a company from negotiating a release from the obligations it has incurred, but such releases are subject to the Department's review. Altresco-Lynn, Inc. and Altresco-Pittsfield, L.P., D.P.U. 91-42; and Cambridge Electric Light Company and Commonwealth Electric Company, D.P.U. 91-153, at 15 (1991). In Electric Industry Restructuring, D.P.U. 95-30, at 32-35 (1995), the Department recognized the amount by which the cost of existing contractual commitments for purchased power exceeds the competitive market price for generation as a cognizable component of stranded costs. That order further stated that a reasonable opportunity to recover transition costs is in the public interest. Id. In addition, in D.P.U./D.T.E. 97-111, at 90 (1998), the Department found that the Companies' Restructuring Plan, which provided for the buy-out and buy-down of above-market purchase-power obligations, was consistent with or substantially complied with the Act. Id.

Also consistent with the Act, the Companies' Electric Restructuring Plan, approved by the Department in D.P.U./D.T.E. 97-111, requires that Cambridge and Commonwealth undertake all reasonable steps to mitigate its transition costs and

encourages them to divest their non-nuclear generating assets. The Department has previously found that the Companies are committed to full mitigation of its transition costs, “principally by auctioning off...PPAs and generating plants” in compliance with the Act. D.P.U./D.T.E. 97-111, at 64.

IV. THE 2003 AUCTION AND THE PITTSFIELD TERMINATION AGREEMENTS ARE CONSISTENT WITH THE ACT AND THE COMPANIES’ APPROVED RESTRUCTURING PLAN.

A. The Pittsfield Termination Agreements Are the Result of an Open and Competitive Auction, Consistent with the Act’s Requirement To Maximize Mitigation of Transition Costs.

As described in Mr. Hevert’s testimony, the 2003 Auction was open, competitive and resulted in the Companies maximizing the mitigation of transition costs relating to the Existing PPAs with Pittsfield. The Companies began developing the 2003 Auction in July, 2003 (Exh. NSTAR-RBH at 5). The Companies retained CEA (after a competitive bid process (see Exh. AG-1-3, Att. AG-1-3(b); Exh. AG-3-2 **CONFIDENTIAL**)) to assist in developing the 2003 Auction. The Companies and CEA sought to design an auction that was equitable and structured to maximize the mitigation of transition costs associated with the entitlements under the Companies’ PPAs (as well as those of Boston Edison Company) (the “PPA Entitlements”) (Exh. NSTAR-RBH at 6). As described by Mr. Hevert, the objective was to implement a process that ensured complete, uninhibited, non-discriminatory access to all data and information by any and all interested parties seeking to participate (id. at 6-7). The primary objectives of the divestiture process included:

- Minimizing the above-market costs associated with the PPAs;
- Developing, implementing and maintaining the most competitive auction process possible;

- Ensuring fair treatment of all bidders;
- Ensuring that the auction process was timely, efficient, and unbiased (id. at 7).

Initially, CEA undertook an aggressive preliminary marketing campaign during which interest in the PPA Entitlements was developed and solicited from numerous potential bidders (id. at 9-10). The initial marketing phase began on October 1, 2003 when NSTAR Electric publicly announced its intention to sell or transfer the 24 PPA Entitlements (id. at 10). Following that announcement, an Early Interest Package was sent to approximately 90 potential bidders including the counterparties to the PPAs,² global, national and regional energy companies, unregulated affiliates of electric and gas utility companies, project developers, energy marketers, financial advisors and investment firms (id.).

The Early Interest Package included an Early Interest Letter (“EIL”), a Confidentiality Agreement, and a Request for Qualifications (“RFQ”) (id.; see also Exh. NSTAR-RBH-3). The EIL provided a brief description of the PPA Entitlements, a general overview of the regional market, and contact instructions for interested parties seeking additional information regarding the Contracts or wishing to participate in the bidding process (Exh. NSTAR-RBH at 10). The EIL also encouraged interested parties to consider bidding on any or all of the PPA Entitlements (id.).

The broad distribution of the Early Interest Package and the direct marketing efforts undertaken by CEA were intended to maximize the likelihood of participation by

² A counterparty is the entity with which NSTAR Electric has a PPA. Generally, the counterparty is the owner of the generation facility (Tr. at 128).

the largest and most competitive group of qualified bidders (id. at 10-11). In order to further this objective, bidders were required to execute a Confidentiality Agreement as a condition of receiving any further information regarding the PPA Entitlements and to submit a completed Qualifications Package in order to be considered “Qualified Bidders” (id. at 11-13). By November 15, 2003, the issuance of the EIL resulted in 25 parties signing Confidentiality Agreements and submitting complete qualifications packages (id. at 11).

Of these 25 parties, 22 participated in the Due Diligence Stage of the auction, whereby these participants received an Offering Memorandum and a documentation CD-ROM that included all of the Companies’ PPAs and associated invoices (id. at 14; see also Exh. AG-2-20 **CONFIDENTIAL**). Bidders had the opportunity throughout the Due Diligence Stage to submit questions to CEA and the Companies regarding the PPAs. Bidders were also given the option to bid on the PPAs pursuant to two alternatives, i.e., either via a lump-sum payment or through the payment of energy-only pricing (Exh. NSTAR-RBH at 16).

By December 3, 2003, the Companies had received twelve bids, including two bids for the entire PPA portfolio, and one bid for all but one of the PPAs (the latter three bids constituting the “Portfolio Bids”) (id. at 17; see also Attachment AG-1-4 **CONFIDENTIAL**). Of the nine non-Portfolio Bids, four were from counterparties to the PPAs, including Pittsfield (Exh. NSTAR-RBH at 20). Bidders were allowed to make improvements to their bids in an effort to further maximize the value of the bids (id. at 18, 21). After analyzing each of the bids based on their net present value as compared to the net present value of the PPAs being bid upon, the Companies determined that, with

respect to the Existing PPAs, Pittsfield's bid was the most likely to create the greatest possible reduction in above-market costs associated those contracts, based on the price offered and the viability of the bid (id. at 19-20, 21-22).

Based on this evidence presented during the proceeding and described herein, the Companies have demonstrated that the 2003 Auction was open and competitive. It produced multiple bidders and multiple types of bids, thereby allowing the Companies to analyze a number of options to determine which bid would maximize the mitigation of transition costs relating to the Existing PPAs. Accordingly, the Department should find that the 2003 Auction was consistent with the Act and the Companies' Restructuring Plan.

B. The Companies Have Demonstrated That, Even Under the Most Conservative Assumptions, the Pittsfield Termination Agreements Will Produce Savings for Customers and Therefore Are Consistent with the Companies' Obligations to Mitigate Transition Costs to the Maximum Extent Possible.

The Pittsfield Termination Agreements are consistent with the Companies' obligation under the Act to mitigate transition costs to the maximum extent possible. As noted previously, the Pittsfield Termination Agreements extinguish all obligations for Cambridge and Commonwealth to purchase power under the PPAs (Exh. NSTAR-GOL at 12). In return, Cambridge and Commonwealth are together required to pay Pittsfield \$1.67 million per month from the Pittsfield Termination Agreements' Effective Date (currently expected to be October 1, 2004) through December 1, 2008 (id. at 12-13; Exh. NSTAR-1 (Appendices A/B at §4.1); Exh. DTE-1-22). The Pittsfield Termination Agreements minimize the Companies' overall transition costs that they would otherwise

collect from their customers by approximately \$7 million on a net-present-value basis (Exh. NSTAR-CAM-GOL-2 ERRATA at 1; Exh. NSTAR-COM-GOL-2 at 1;³ Tr. 1 at 13-14).

The Companies' and CEA's first step in the evaluation of the Pittsfield Termination Agreements (and other bids for this or other PPAs) was to prepare a forecast of the above-market cost of the PPAs. Then, divestiture or buyout proposals were compared to the net-present-value ("NPV") of the above-market value of the PPAs determine whether and how much mitigation was represented by the proposal. As indicated by Mr. Lubbock, this initial analysis, conducted by CEA, was used as a "screening tool" to compared and evaluate proposals (Tr. at 89-90, 101). The above-market cost for the Existing Pittsfield PPAs is the difference between the total costs to be paid for the energy and capacity over the term of the agreements and the market value of that electricity (Exh. NSTAR-RBH at 18; Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**). The primary variables in the determining the above-market cost of the Existing PPAs were: (1) the market price of energy and capacity; (2) the contract price of energy and capacity; (3) the projected energy production; (4) fuel costs; (5) capital costs; and in the case of the Existing PPA with Cambridge, (6) a transmission charge (Exh. NSTAR-RBH at 25). To ensure internal consistency, the fuel, energy, and capacity, price projections were obtained from the same source, a forecast developed by Henwood Associates (the "Henwood Study") (id., see also Exh. AG-1-2 **CONFIDENTIAL**; Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**). The Henwood

³ Exhibit NSTAR-COM-GOL-2 was corrected in the attachment to Exhibit DTE-2-1 (Tr. 1 at 13).

Study provides an industry-known, independent, third-party forecast of the key energy variables needed in this analysis and have been relied on by NSTAR Electric and the Department in the past (Exh. DTE-2-9). Moreover, the Henwood forecasts fell between other well-regarded market forecasts (Exh. AG-3-10, Attachment AG-3-10(b) **CONFIDENTIAL**). Finally, CEA applied a discount rate of 7.82 percent⁴ (Exh. NSTAR-RBH at 25; Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**) to compute the NPV of the above-market costs.

The second step in this screening process was the calculation of the costs under the proposed mitigation transaction, in this case, the Pittsfield Termination Agreements. Because, in this case, the payments under the Pittsfield Termination Agreements are known, fixed amounts, there are no variable costs to consider and the NPV of the payment streams were compared with the NPV of the above-market costs (Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**, at 1). This calculation shows that the Pittsfield Termination Agreements provide approximately 11 percent savings over the Existing PPAs, on an NPV basis (Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**).⁵

One issue raised in this proceeding that has a material impact on the forecast of the above-market costs of the Existing PPAs is the assumption of the future capacity

⁴ This NSTAR Electric, company-wide discount rate used in Mr. Hevert's analysis contains a "target" 50 percent debt/50 percent equity, capital structure and estimates of returns on equity and debt (Exh. DTE-2-2). Mr. Hevert's calculation of savings (including the discount rate) was used as a screening tool and does not directly affect Mr. Lubbock's calculation of customer savings (Tr. at 101, 200-202).

⁵ As described below, Mr. Lubbock used the forecasts of the payments under the Existing PPAs and under the Pittsfield Termination Agreements to compute the impact of the two alternatives on the Transition Charges paid by customers. This ratemaking analysis presents a more precise picture of the way in which the comparative costs flow through to customers and results in approximately a \$7 million NPV savings to customers.

factor of the facility.⁶ However, during the proceeding, the Companies demonstrated that, even using unrealistic assumptions posed by the Attorney General regarding the future operation of the Pittsfield units, the Pittsfield Termination Agreements will result in customer savings. For example, in its base case analysis, the Companies assumed a capacity factor for the Pittsfield units of 37 percent (Exh. NSTAR-RBH at 26; Exh. NSTAR-RBH-6 ERRATA **CONFIDENTIAL**). However, the Companies presented evidence that, since September 2003, the actual capacity factor of the facility has averaged approximately 27 percent (Exh. NSTAR-RBH at 26; Exh. AG-2-1; Exh. AG-2-2, Attachment AG-2-2). Pursuant to requests by the Attorney General, the Companies ran analyses of the Pittsfield Termination Agreements assuming capacity factors of above 80 percent (up to 90 percent), in order to determine whether savings would be produced using historical (pre-September 2003) capacity factors for the Pittsfield units (Exh. AG-2-3, Attachment AG-2-3(a) ERRATA **CONFIDENTIAL**, Attachment AG-2-3(b) ERRATA **CONFIDENTIAL**; Exh. AG-3-5, Attachment AG-3-5(a) **CONFIDENTIAL**).⁷ Even using these assumptions, the Pittsfield Termination

⁶ As explained by the Companies' witnesses, because a large portion of the costs under the Existing PPAs are fixed, above-market costs are reduced if the plant is dispatched at a higher capacity factor (Tr. at 114-115). Although NSTAR Electric has disputed Pittsfield's actions that have resulted in the low capacity factor of the unit, Pittsfield has taken the position that its practices are appropriate and consistent with the Existing PPAs (Exh. AG-1-1, Attachments AG-1-1(u) and AG-1-1(v)).

⁷ The Companies noted during the proceeding that it is not reasonable to assume that the Pittsfield will operate at a 90 percent average annual capacity factor over the remaining term of the contract (Exh. AG-3-5). The Companies believe that the plant will have much lower capacity factors in the future due in whole or in part to two main factors:

(footnote continued...)

Agreements would be no worse for customers than the Existing PPAs (Exh. AG-3-5, Attachment AG-3-5(a) **CONFIDENTIAL**).⁸

Accordingly, there is ample evidence on the record in this proceeding to support the Companies' estimates of customers savings associated with the Pittsfield Termination Agreements. Therefore, the Pittsfield Termination Agreements provide for maximum mitigation of Cambridge's and Commonwealth's transition costs and significant savings to their customers.⁹

(...footnote continued)

- (a) Over 10,000 MW of new more efficient combined cycle generation has been added to the NEPOOL market in recent years (id.). Much if this new generation has heat rates of circa 7,000 BTUs per kWh (id.). Pittsfield has a heat rate of approximately 10,000 BTUs per kWh, which puts it at an enormous disadvantage when competing with these new units (id.). In addition, gas prices are high by historical standards and are forecast to remain high putting further pressure on inefficient gas fired plants resulting in lower capacity factors; and
- (b) As noted above, the Pittsfield unit has recently seen capacity factors in the range of 27 percent (id.). This capacity factor is being achieved because of the bidding strategy currently being pursued by the plant following the termination of the purchase power contract for the remaining approximately 65 percent of the plant output not sold to the Companies (id.). The Companies acknowledged during the proceeding that this strategy is under dispute between the Companies and Pittsfield (Exh. AG-1-1; Exh. AG-1-1, Attachment AG-1-1(u) and Attachment AG-1-1(v); Tr. 1, at 25, 40, 45, 48, 167). However, even if the Pittsfield units were to run at an unrealistic capacity factor, approval of the Pittsfield Termination Agreements would not harm customers and would fulfill the Companies' obligation to divest of generation entitlements (see Exh. AG-3-5, Attachment AG-3-5(a) **CONFIDENTIAL**).

⁸ CEA also performed sensitivity analyses to determine the level of savings relating to the Pittsfield Termination Agreements under assumptions of both a 10 percent increase in energy and fuel prices and a 10 percent decrease in energy and fuel prices (Exh. DTE-2-4, Attachment DTE-2-4 ERRATA **CONFIDENTIAL**). As demonstrated by the analyses, significant savings were attributable to the Pittsfield Termination Agreements under both these scenarios.

⁹ The Companies are requesting that the Department approve the Pittsfield Termination Agreements by September 7, 2004, in order to allow for an Effective Date of October 1, 2004. The Companies noted during the proceeding that a delay in the effective date past October 1, 2004 affects the amount of above-market costs recovered in the variable component of the Companies' respective Transition Charges (Exh. DTE-1-8 **CONFIDENTIAL**). Therefore, until the Termination Agreements become effective, customers will continue to pay the higher cost of power under the Existing PPAs.

C. The Companies' Proposed Ratemaking Treatment for the Costs of the Pittsfield Termination Agreements Is Consistent With Department Precedent.

The Companies' proposed ratemaking treatment for the costs of the Pittsfield Termination Agreements is consistent with Department precedent and should be approved. The savings of approximately \$7 million associated with the Pittsfield Termination Agreements are determined by comparing the forecast Transition Charges to be paid by customers if the Existing PPAs were to remain in effect with the Transition Charges to be paid by customers under the Pittsfield Termination Agreements (Exh. NSTAR-GOL at 13; Exhibit NSTAR-CAM-GOL-2 ERRATA and Exhibit NSTAR-COM-GOL-2¹⁰). The Companies also accounted for the fact that, through February 28, 2005, the electricity purchased through the existing PPAs is used to supply a portion of Cambridge's and Commonwealth's obligation to provide its customers with Standard Offer Service (Exh. NSTAR-GOL at 13).

The Companies incorporated the imputed costs of the output of all PPAs used for Standard Offer Service, the so-called "transfer price," to compute the above-market costs of PPAs (Exh. NSTAR-GOL at 13). The transfer price is affected by the termination of the Existing PPAs because the reduced purchases will change the costs incurred to provide Standard Offer Service (Exh. NSTAR-GOL at 13-14). By including in the analysis of customer savings a forecast of the changes in the transfer prices for Standard Offer Service, and its resulting impact on Transition Costs, the Companies considered all impacts on customers of the Pittsfield Termination Agreements (Exh. NSTAR-GOL

¹⁰ See Exhibit DTE-2-1 and Transcript at 13.

at 14).¹¹

The Companies also determined that some 2005 state tax benefits would be lost if the payments were evenly distributed between Cambridge and Commonwealth for 2005 and 2006 (Exh. NSTAR-GOL at 18; Exh. DTE-1-23; Exh. AG-3-14; RR-DTE-7). Specifically, Commonwealth would not be able to take a state tax deduction in 2005 if the Pittsfield Termination Agreements payments were evenly distributed between Commonwealth and Cambridge during that year (Exh. AG-3-14; RR-DTE-7). However, the Companies concluded that, by changing the timing of the payments between Cambridge and Commonwealth in 2005 and 2006, the loss of state tax benefits could be minimized, without affecting the total payment to Pittsfield (Exh. NSTAR-GOL at 18; Exh. DTE-1-23; Exh. AG-3-14; RR-DTE-7). The Companies demonstrated during the proceeding that the benefits of minimizing the tax impact of the transaction on Commonwealth's customers outweigh the corresponding minimal impact on Cambridge's customers related to changing the timing of the payment streams (Exh. AG-3-14(a); Exh. AG-3-14(b)). In fact, even with the adjusted stream of payments, the savings for the customers of Cambridge (\$3.888 million on an NPV basis) will exceed the savings for the customers of Commonwealth (\$3.106 million on an NPV basis).¹²

The Companies propose to recover the costs of the Pittsfield Termination

¹¹ The Companies presented their full Transition Cost analysis in Exhibits NSTAR-CAM-GOL-3 ERRATA **CONFIDENTIAL** through NSTAR-CAM-GOL-8 ERRATA **CONFIDENTIAL** and Exhibits NSTAR-COM-GOL-3 **CONFIDENTIAL** through NSTAR-COM-GOL-8 **CONFIDENTIAL**.

¹² Compare Exhibit NSTAR-CAM-GOL-2 ERRATA and Exhibit NSTAR-COM-GOL-2 (the latter as filed in Exhibit DTE-2-1). The difference in customer savings results largely from the fact that the Existing PPA for Cambridge includes a transmission component and that the market value of power for the two companies is somewhat different because they are in different load zones.

Agreements through the variable portion of the Companies' respective Transition Charges, consistent with the historical treatment of costs associated with the existing Pittsfield PPAs (Exh. NSTAR-GOL at 18-19). The payments made and Transition Charge revenues will continue to be reconciled to actual amounts as part of NSTAR Electric's annual reconciliation process in accordance with the terms of the approved Restructuring Plan (*id.*). Accordingly, the Companies have demonstrated that their proposed ratemaking treatment for the costs of the Pittsfield Termination Agreements is consistent with Department precedent and should be approved.

V. CONCLUSION

Based on the evidence presented during this case, and for all of the reasons set forth above, the Companies request that the Department find that:

- (1) the 2003 Auction ensured complete, uninhibited non-discriminatory access to all data and information by all parties seeking to participate in the Auction and therefore was equitable;
- (2) the 2003 Auction maximized the value of the Companies' PPAs for customers;
- (3) the Pittsfield Termination Agreements are consistent with the Companies' Restructuring Plan;
- (4) any and all authorizations that may be required under Massachusetts law for the Pittsfield Termination Agreements, as described herein, have been satisfied, including, without limitation, approval pursuant to G.L. c. 164, §§ 1A, 1G and 76;
- (5) the Pittsfield Termination Agreements are consistent with applicable law, including relevant portions of the Act and the Companies' approved Restructuring Plan, are in the public interest, and will result in just and reasonable rates for Cambridge's and Commonwealth's retail customers, in accordance with G.L. c. 164, §§ 94 and 94A; and
- (6) Cambridge and Commonwealth, in entering into the Pittsfield Termination Agreements, have taken all reasonable steps to mitigate, to the maximum

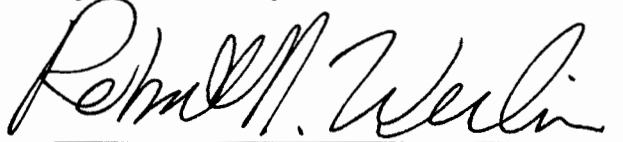
extent possible, the total amount of transition costs relating to the Existing Pittsfield PPAs in accordance with G.L. c. 164, § 1G.

The Companies also respectfully request that the Department: (1) grant any other approvals and make any other findings that may be necessary or appropriate to facilitate the sale of the assets as described herein; and (2) make the requested findings by September 7, 2004, which would facilitate the Pittsfield Termination Agreements having an October 1, 2004 Effective Date, thereby maximizing customer savings.

Respectfully submitted,

**CAMBRIDGE ELECTRIC LIGHT COMPANY
COMMONWEALTH ELECTRIC COMPANY**

By Their Attorneys,

A handwritten signature in black ink, appearing to read "Robert N. Werlin", written over a horizontal line.

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Date: August 12, 2004